



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING



THOMAS D. WATKINS, JR.
SUPERINTENDENT OF
PUBLIC INSTRUCTION

MEMORANDUM

TO: Intermediate and Local School District Directors of Special Education, Chief Executive Officers of Public School Academies, Institutions of Higher Education Committee Members, Special Education Advisory Committee, and Organizations and Associations Interested in Special Education

FROM: Jacquelyn J. Thompson, Ph.D., Director
Office of Special Education and Early Intervention Services

DATE: February 11, 2003

SUBJECT: Administrative Rules Changes Required by the U.S. Department of Education, Office of Special Education Programs

Currently, Michigan's Administrative Rules for Special Education (Rules) at 340.1722a contain a statement that after the completion of the Individualized Education Program (IEP) report, the superintendent has seven (7) calendar days to either appeal the decisions in the IEP or to notify the parent of implementation of the IEP.

The U.S. Department of Education, Office of Special Education Programs (OSEP) has directed the Michigan Department of Education, Office of Special Education and Early Intervention Services (OSE/EIS) to remove the language in R340.1722a regarding the superintendent's right to appeal. The OSEP indicated that there is no authority for the superintendent to "veto" the decisions of the IEP Team. The OSE/EIS agrees with OSEP's interpretation. However, the "appeal" in R340.1722a is an opportunity to request a due process hearing which is available to any party defined in Rule 340.1724.

As a requirement to receive federal funds under the Individuals with Disabilities Education Act for Federal Fiscal Year 2003, the Michigan Department of Education has agreed to remove the language at R340.1722a regarding the superintendent's right of appeal. New rule language will be drafted which receive public comment and public hearings under both State and Federal standards.

OSE/EIS 03-01

STATE BOARD OF EDUCATION

KATHLEEN N. STRAUS – PRESIDENT • SHARON L. GIRE – VICE PRESIDENT
CAROLYN L. CURTIN – SECRETARY • HERBERT S. MOYER – TREASURER
MARIANNE YARED MCGUIRE – NASBE DELEGATE • JOHN C. AUSTIN • ELIZABETH W. BAUER • EILEEN LAPPIN WEISER

608 WEST ALLEGAN STREET • P.O. BOX 30008 • LANSING, MICHIGAN 48909
www.michigan.gov • (517) 373-3324